Supreme Court, U.S.
FILED
MAY 13 1993
OFFICE OF THE CLERK

(6)

No. 92-1180

In the Supreme Court of the United States

OCTOBER TERM, 1992

UNITED STATES OF AMERICA, PETITIONER

v.

JAMES DANIEL GOOD REAL PROPERTY, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

CHRISTOPHER YUEN
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(808) 935 4429
Counsel for Respondent

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Washington, D.C. 20530
(202) 514-2217
Counsel for Petitioner

PETITION FOR A WRIT OF CERTIORARI FILED JANUARY 8, 1993
CERTIORARI GRANTED MARCH 22, 1993

35 pp

TABLE OF CONTENTS

Relevant Docket Entries:	Page
United States District Court for the District of Hawaii	1
United States District Court for the District of Hawaii	7
Complaint for Forfeiture, filed Aug. 8, 1989	11
Verification of Beverly A. Wee, dated Aug. 7, 1989	14
Warrant of Arrest, dated Aug. 8, 1989	15
Answer to Complaint for Forfeiture, dated Oct. 17, 1989	17
Verified Claim, filed Oct. 18, 1989	22
First Amended Answer to Complaint, filed Oct. 23, 1989	26
Seizure Warrant, filed Aug. 18, 1989	27
Affidavit in Support of Seizure Warrant, filed Aug. 18, 1989	29
Judgment in a Civil Case, dated Oct. 3, 1990	32
Order Allowing Certiorari, filed Mar. 22, 1993	33

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

No. 89-612 HMF

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233(3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

RELEVANT DOCKET ENTRIES

DATE	NR.	PROCEEDINGS
1989		
Aug 8	1	COMPLAINT for Forfeiture; Verification of Beverly A. Wee; Warrant of Arrest Warrant Issued
	2	Order Setting Rule 16 Scheduling Conference —2/8/90 @ 8:30 a.m., Tokairin
	3	Notice of Pendency of Action; Affidavit In Support of Pendency of Action; Exhibit "A" —on behalf of Plaintiff
29	4	Return of Service—property seized and posted 8-21-89
	5	Return of Service—unable to locate James Good

DATE	NR.	PROCEEDINGS
Sep 8	6	Ex Parte Motion for Court to Designate Newspaper of General Circulation—On Behalf of Plaintiff
11	7	ORDER Designating Newspaper of General Circulation—On Behalf of Plaintiff
13	8	Notice of Arrest and of Action to Forfeit Property to the United States
Oct 18	9	*ANSWER* to Complaint for Forfeiture; Certificate of Service on behalf of James Good
	10	Verified Claim; Demand for Jury Trial; Certificate of Service on behalf of James Good
19	11	Affidavit of Publication—as to September 27, 1989; October 4, 11, 1989
23	12	First Amended Answer to Complaint for Forfeiture; Certificate of Service—on behalf of Claimant James Daniel Good
		• • • •
Dec 14	19	Certificate of Service—as to Claimant's Response to First Request for Production Documents—on behalf of James Daniel Good
1990		
		• • • •
Jan 29	22	Scheduling Conference Statement of United States of America; Certificate of Service
Feb 1	23	Scheduling Conference Statement of Claimant James Good; Certificate of Service
8	24	*EP:* Rule 16—Jury selection and TRIAL 11-27-90 @ 9:30. Fong. Final PT 11-13-90 @ 9:30, Tokairin. Pretrial Statements 9-13-90. Motions filed/discovery noticed 9-27-90. Disclosure of experts for pltf 7-10-90; deft 7-24-90. Simultaneous exchange of experts' reports 8-24-90. Depos 9-24-90. PT Conf

DATE	NR.	PROCEEDINGS
1990		#2—6-8-90 @ 9, Tokairin. Takeuchi to prepare order
Feb 26	25	Pre Trial Preparation ORDER #1—On Behalf of Plaintiff *TOKAIRIN*
		• • • •
Jun 8	28	*EP:* PT conf No. 2—Counsel given review of approaching cut off dates. Discovery proceeding, no problems. Deposition of Good is set for July. Final PT: 11-13-90 at 9:30.
Jul 13	29	Notice of Motion; Claimant James Good's Motion for Summary Judgment; Memorandum in Support of Claimant James Good's Motion for Summary Judgment; Affidavit of Christopher J. Yuen; Affidavit of Eva Metz; Ex. "A"-"I"; Certificate of Service—8-13-90 @ 10:45
	30	Notice of Motion; Claimant James Good's Motion to Exclude Evidence; Memorandum in Support of Claimant James Good's Motion to Exclude Evidence; Affidavit of Christopher J. Yuen; Ex. "A"-"F"; Certificate of Service on behalf of Good—8-13-90 @ 10:45, Fong
		• • • •
Aug 3	33	Notice of Motion; Motion to Strike Claim and For Summary Judgment; Table of Contents and Table of Authorities; Memorandum of Points and Authorities in Support of Motion to Strike Claim and For Summary Judgment; Exhibits A-D; Declaration of Ronald Nakamichi; Declaration of Beverly Wee; Exhibit 1-2; Certificate of Service—9/3/90 @ 3:45 p.m. Fong

DATE	NR.	PROCEEDINGS
1990		
9	34	*EO:* Claimant Good's Motion for Summary Judgment contd to 9-4-90 at 3:45 p.m.
13	35	Stipulation Continuing Motion Dates [M/SJ contd to 9-4-90 at 3:45; Claimant Good's M/Exclude Evidence set for 8-13-90 contd to 9-17-90 at 3:00 p.m.]
17	36	Plaintiff's Opposition to Claimant James Good's Motion for Summary Judgment
20	37	Claimant James Good's Memorandum in Opposition to United States' Motion to Strike Claim and for Summary Judgment; Declaration of Christopher J. Yuen; Ex. "A";
23	38	Memorandum In Reply to James Good's Opposition to Plaintiff's Motion for Summary Judgment; Certificate of Service—On Behalf of Plaintiff
24	39	Claimant's Reply Memorandum In Support of Motion for Summary Judgment; Certificate of Service—on behalf of Claimant James Daniel Good
Aug 24	40	Affidavit of Nathalia Walker Richmond Presented in Opposition to Plaintiff's Motion for Summary Judgment; Certificate of Service
30	41	Affidavit of Noelie M. Rodriguez Presented in Opposition to Plaintiff's Motion for Summary Judgment; Certificate of Service—on behalf of James Good
30	42	Memorandum of Points and Authorities in Opposition to Motion to Exclude Evidence; Exhibits A and B; Certificate of Service—on behalf of Plaintiff

* * * *

DATE	NR.	PROCEEDINGS
1990		
Sep 4	44	*EP:* Claimant Good's Motion for Summary Judgment—Arguments heard. Claimant Good's Motion for Summary Judgment—Denied. Court to prepare written Order.
7	45	Plaintiff's Supplemental Evidentiary Submission and Memorandum In Supoprt of Motion for Summary Judgment; Exhibits "A" and "B"; Certificate of Service
10	46	Claimant James Good's Reply Memorandum in Support of Motion to Exclude Evidence; Exhibit "A"; Certificate of Service
11	47	ORDER Denying Claimant's Motion for Summary Judgment—cc: all counsel
13	48	Pre Trial Statement of Plaintiff United States; Certificate of Service
	49	Claimant James Daniel Good's Pre Trial Statement; Certificate of Service
	50	Claimant James Good's Supplemental Memorandum in Opposition to Plaintiff's Motion for Summary Judgment; Certificate of Service
17	51	*EP:* 1) Motion to Strike Claim and for Summary Judgment; 2) Claimant Good's Motion to Exclude Evidence; 3) Governments Motion for Summary Judgment—arguments heard. Claimant Good's Motion to Exclude Evidence DENIED. Governments Motion for Summary Judgment GRANTED. Claimant's Motion to Strike Claim and for Summary Judgment DENIED. Ms. Wee to prepare order
26	52	ORDER Denying Claimant James Good's Motion to Exclude Evidence and Granting

DATE	NR.	PROCEEDINGS
1990		
		Plaintiff's Motion for Summary Judgment—Plaintiff's Motion for Summary Judgment is Granted. Defendant property is hereby forfeitued to Plaintiff United States of America.
Oct 3	53	JUDGMENT in a Civil Case—That Summary Judgment is entered in favor of Plaintiff and against Defendant. IT IS FURTHER ORDERED that Defendant property is hereby forfeited to Plaintiff United States of America. cc: All parties of record
17	54	Notice of Appeal—(by claimant James Daniel Good)
Nov 1		Notice of Appeal sent to Clerk, 9th CCA & to all counsel
		• • • •
Nov 8		Transcript of Proceedings—9/4/90—Orig—YI
		Transcript of Proceedings—9/17/90—Orig—YI

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

No. 90-16636

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE

v.

JAMES DANIEL PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249, 207, TAX MAP KEY NO. 1-6-008-233(3), LOCATED AT KEEAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT-APPELLANT

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
11/12/90	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. Sent appellant(s) civil appeals docketing statement, setting schedule as follows: CADS due 11/26/90 for Christopher J. Yuen; appellant's designation of RT is due 10/29/90; appellee's designation of RT is due 11/6/90; appellant shall order transcript by 11/16/90; court reporter shall file transcript in DC by 12/17/90; certificate of record shall be filed by 12/24/90; appellant's opening brief is due 2/4/91; appellees' brief is due 3/4/91; appellants' reply brief is due 3/18/91; [90-16636]
	• • • •

DATE	PROCEEDINGS
2/5/91	Filed original and 15 copies Appellant James Daniel Good opening brief (Informal: n) 48 pages and five excerpts of record in 1 volumes; served on 2/1/91 [90-16636] [Entry date 02/06/91]
3/1/91	Received Appellant James Daniel Good's addendum appellant's excerpt of record (order omitted from excerpt) brief [1878154-1], served on 2/25/91 (RECORDS) [90-16636] [Entry date 03/07/91]
3/7/91	Filed original and 15 copies appellee USA's 41 pages brief, 0 Exc. vols.; served on 3/4/91 [90-16636] (sm)
	* * * *
3/21/91	Filed original and 15 copies James Daniel Good reply brief, (Informal: n) 16 pages; served on 3/18/91 [90-16636]
3/31/91	Claimant James Daniel Good appeals the district court's denial of his summary judgment motion and grant of summary judgment in favor of the United States in the United States' ciivl forfeiture action against real property owned by Good located on the Big Island of the State of Hawaii. The basis of the forfeiture was the property's use to manufacture and distribute a controlled substance. ISSUES: 1. Was the forfeiture properly commenced within the applicable statute of limitations, as required by 21 U.S.C. sec 881(a)(7) and 19 U.S.C. sec 1604? 2. Did the forfeiture violate the double jeopardy clause because it represents a second punishment after Good had already been criminally prosecuted for the same act?

DATE	PROCEEDINGS
	3. Did the forfeiture violate the due process clause due to the lack of a pre-seizure hearing? 4. Did the district court err in denying Good's "Motion to Exclude Evidence" discovered pursuant to the search of the subject properly because the affidavit in support of the search warrant was not supported by probable cause? 5. If evidence resulting from the search is excluded, did the district court err in not granting summary judgment in favor of Good because his guilty plea and conviction for promoting a harmful drug (Hawaii Rev. Stat. sec 712-1245(1)(b) do not establish the necessary proof and the guilty plea was the fruit of the illegal search? Date 3/22/91 [90-16636] [Entry date 04/08/91]
	* * * *
12/11/91	ARGUED AND SUBMITTED TO Ruggero J. Aldisert, Alfred T. GOODWIN, John T. NOONAN [90-16636]
	* * * *
4/24/92	FILED OPINION: AFFIRMED IN PART, REVERSED IN PART, AND REMANDED (Terminated on the Merits after Oral Hearing; Affirmed (in part) and Reversed (in part); Written, Signed, Published. Ruggero J. Aldisert; Alfred T. GOODWIN, author; John T. NOONAN, dissenting.) (FILED AND ENTERED JUDGMENT. [90-16636] [Entry date 04/29/92]
4/30/92	Filed USA motion to extend time to file petition for rehearing until [90-16636] served on 4/29/92 (Judge GOODWIN) [Entry date 05/01/92]
5/11/92	Filed order (Alfred T. GOODWIN): The government's motion for an extention of time to 06/08/92, within which to file its petition for re-

DATE	PROCEEDINGS
	hearing with suggestion for rehearing en banc is GRANTED. [2125846-1] [90-16636]
	* * * *
6/10/92	Filed original and 40 copies Appellee USA petition for rehearing with suggestion for rehearing en banc. (PANEL AND ALL ACTIVE JUDGES) 16 p.pages, served on 6/8/92 [90-16636]
9/10/92	Filed order and amended opinion (Judges Ruggero J. Aldisert, Alfred T. GOODWIN, author, John T. NOONAN, dissenting) (Orig. opinion id:) The opinion filed 4/24/92 is amended as follows: (SEE CASEFILE FOR COMPLETE TEXT) With these amendments, the petition for rehearing is denied and the suggestion for rehearing en banc is rejected. [90-16636] [Entry date 09/11/92]
9/18/92	MANDATE ISSUED [90-16636]
1/19/93	Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 92-01180 filed on 01/80/93. [90-16636] [Entry date 02/09/93]
3/25/93	Received notice from Supreme Court, petition for certiorari GRANTED on 03/22/93 [Entry date 03/31/93]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Civil No. 89-00612 HMF

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

COMPLAINT FOR FORFEITURE; VERIFICATION OF BEVERLY A. WEE; WARRANT OF ARREST

[Filed Aug. 8, 1989]

COMPLAINT FOR FORFEITURE

For its claim of forfeiture against Defendant, Property Titled in the Name of James Daniel Good, Described in Transfer Certificate of Title No. 249,207, Tax Map Key No. 1-6-008-233(3), located at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, together with appurtenances and improvements (hereinafter "Defendant"), Plaintiff UNITED STATES OF AMERICA (hereinafter "USA"), alleges as follows:

1. This Court has jurisdiction of this action under 28 U.S.C. § 1345 and 21 U.S.C. § 881(a)(7). That the Defendant real property with improvements and appurtenances thereto lying in Puna, Island and County of

Hawaii, State of Hawaii, is more fully described as follows:

All of that certain parcel of land situate at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, described as follows:

LOT 8941, area 4.000 acres, Block W-W-W, as shown on Map 53, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 1053 (amended) of W.H. Shipman, Limited;

Together with an undivided 2/2490th interest, in Roadway Lot 8215, area 213.264 acres, as shown on said Map 53, to be used in common with others entitled thereto for a right of way for road purposes only;

Being the land(s) described in Transfer Certificate of Title No. 249,207 issued to JAMES DANIEL GOOD, unmarried.

2. That defendant real property with appurtenances and improvements was used or was intended to be used, in any manner or part, to commit, or to facilitate a commission of a violation of Title 21, United States Code, the Controlled Substances Act which is punishable by more than one year's imprisonment, all in violation of Title 21, United States Code, Sections 881(a)(7) and 841 as is set forth in the following facts:

a. That on January 31, 1985, upon execution of a search warrant, the following items, among others, were recovered from within defendant property:

(1) 272.4 grams of marijuana seeds;

(2) 39,199.3 grams of processed marijuana; and

(3) vials containing hashish oil, a heat seal machine, and can sealer.

3. That defendant real property is titled in the name of James Daniel Good.

4. That the defendant real property with appurtenances and improvements is now and during the pendency of this action will be in the jurisdiction of this Court.

5. That by reason of these premises defendant real property with appurtenances and improvements is forfeited to the United States pursuant to the provisions of 21 U.S.C. § 881(a)(7).

WHEREFORE, USA Prays that:

1. The Clerk of this Court issue a warrant for the arrest of Defendant and deliver it forthwith to the United States Marshal;

2. The Court enter judgment in favor of the United States of America, forfeiting Defendant Property Titled in the Name of James Daniel Good, Described in Transfer Certificate of Title No. 249,207, Tax Map Key No. 1-6-0081233(3), located at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, together with appurtenances and improvements to the USA; and

3. The Court award such further and other relief as is deemed just and appropriate.

DATED: Honolulu, Hawaii, Aug. 7, 1989.

DANIEL BENT
United States Attorney
District of Hawaii

By /s/ Beverly A. Wee
BEVERLY A. WEE
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Civil No. ———

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

VERIFICATION OF BEVERLY A. WEE

I, BEVERLY A. WEE, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

I am an Assistant United States Attorney in the District of Hawaii, and I have read the attached Complaint and know the contents thereof; the information contained in the Complaint has been furnished by official government sources; and, based on information and belief, the allegations contained in the Complaint are true.

DATED: August 7, 1989, at Honolulu, Hawaii.

/s/ Beverly A. Wee
BEVERLY A. WEE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Civil No. ———

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

WARRANT OF ARREST

TO: THE UNITED STATES MARSHAL FOR THE DISTRICT OF HAWAII:

WHEREAS, on the 8th day of Aug. 1989, a Complaint for Forfeiture was filed in the United States District Court for the District of Hawaii by the UNITED STATES OF AMERICA against the following described property:

> Property Titled in the Name of James Daniel Good, Described in Transfer Certificate of Title No. 249,207, Tax Map No. 1-6-008-233(3), located at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii.

YOU ARE HEREBY COMMANDED to arrest and attach the said property and to detain the same in your custody until further order of this Court. Further, what

you have done in the premises, do you then and there make return thereof, together with this Writ.

DATED: Honolulu, Hawaii, Aug. 8, 1989

WALTER A. Y. H. CHINN
Clerk
United States District Court
for the District of Hawaii

By /s/ [Illegible]
Deputy Clerk
United States District Court
for the District of Hawaii

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Civ. No. 89-00612 HMF

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

ANSWER TO COMPLAINT FOR FORFEITURE; CERTIFICATE OF SERVICE

ANSWER TO COMPLAINT FOR FORFEITURE

Comes now claimant James Daniel Good (hereinafter "claimant") by and through his undersigned counsel, for answer to the complaint for forfeiture filed herein, pursuant to Supplemental Rule C(6) of the Federal Rules of Civil Procedure, and alleges and avers as follows:

FIRST DEFENSE

1. The complaint for forfeiture fails to state a claim upon which relief may be granted.

SECOND DEFENSE

2. Claimant admits the allegations in paragraphs 1, 3, and 4 of the complaint. With respect to paragraph 2 of the complaint, claimant has been informed that items of the general nature described in the complaint were al-

leged to have been taken from the subject property on or about January 31, 1985, but lacks information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 2, and therefore denies them.

THIRD DEFENSE

3. The complaint for forfeiture was not timely commenced because it was not initiated shortly after the filing of state court criminal proceedings concerning the offense alleged to have been committed on or about January 31, 1985 on the subject property.

FOURTH DEFENSE

4. Claimant has been prejudiced by the delay between the accrual of the cause of action and the commencement of forfeiture proceedings, and therefore, the complaint for forfeiture is barred by laches.

FIFTH DEFENSE

5. Under the facts of this case, forfeiture of the property constitutes cruel, unusual, and disproportionate punishment in violation of claimant's rights under the Eighth Amendment to the Constitution of the United States.

SIXTH DEFENSE

6. Under the facts of this case, forfeiture of the property constitutes a taking of claimant's property without compensation and without due process of law in violation of claimant's rights under the Fifth and Fourteenth Amendments to the Constitution of the United States.

SEVENTH DEFENSE

7. Under the facts of this case, forfeiture of the property violates claimant's rights under the Double Jeopardy Clause of the United States Constitution.

EIGHTH DEFENSE

8. The doctrine of judicial restraint applies to the complaint for forfeiture, and therefore, portions of the property are not subject to forfeiture.

NINTH DEFENSE

9. Forfeiture is limited to the portion of the property directly used in violation of the underlying criminal statute.

TENTH DEFENSE

10. The present proceedings depend upon evidence and information obtained in violation of claimant's right to be free from unreasonable searches and seizures and his right to privacy, under the applicable provisions of the United States Constitution.

ELEVENTH DEFENSE

11. Plaintiff failed to initiate this action within the applicable period of limitatons after it had knowledge of the accrual of the cause of action, and the complaint is, therefore, barred by the statute of limitations.

TWELFTH DEFENSE

12. Claimant asserts the defense of innocent ownership with respect to any use of the subject property in violation of Title 21, United States Code, within the applicable period of limitations.

Claimant's attorney appears specially on behalf of claimant James Daniel Good for the sole and limited purpose of asserting his claim to the property and does not appear generally, reserving all objections to the assertion of general jurisdiction over his person.

Wherefore, claimant prays that the complaint for forfeiture be dismissed, that he be restored to possession of

the property, and that he be awarded his costs, attorney's fees, and any other just and proper relief.

DATED: Hilo, Hawaii, October 17, 1989

/s/ Christopher J. Yuen
CHRISTOPHER J. YUEN
Attorney for
James Daniel Good
Claimant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on the following by mailing the same, postage prepaid, on October 17, 1989, to:

Beverly Wee, Esq.
Assistant U.S. Attorney
Room C-242, U.S. Courthouse
300 Ala Moana Boulevard
Post Office Box 50183
Honolulu, Hawaii 96850
Attorney for Plaintiff United States of America

DATED: Hilo, Hawaii, October 17, 1989

/s/ Christopher J. Yuen
CHRISTOPHER J. YUEN
Attorney for Claimant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Civ. No. 89-00612 HMF

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

VERIFIED CLAIM; DEMAND FOR JURY TRIAL; CERTIFICATE OF SERVICE

[Filed Oct. 18, 1989]

VERIFIED CLAIM

Comes now claimant James Daniel Good (hereinafter "claimant"), by and through his undersigned counsel, and alleges and avers as follows:

1. Claimant is the legal and equitable owner in fee simple of the property which is the subject of this action, described as Tax Map Key (3) 1-6-008-233, located at Keaau, Puna, Island and County of Hawaii, State of Hawaii, and all improvements and appurtenances thereon (hereinafter "the property").

2. Claimant obtained legal title to the property by warranty deeds dated December 12, 1978 and October 4, 1982 in exchange for good and valuable consideration.

3. Claimant is holder of Transfer Certificate of Title No. 249,207, which describes the property.

4. Claimant is the lawful owner of the property to the exclusion of all others, including the United States of America.

Claimant's attorney appears specially on behalf of claimant James Daniel Good for the sole and limited purpose of asserting his claim to the property and does not appear generally, reserving all objections to the assertion of general jurisdiction over his person.

Wherefore, claimant prays that the complaint for forfeiture be dismissed, that he be restored to possession of the property, and that he be awarded his costs, attorney's fees, and any other just and proper relief.

DATED: Hilo, Hawaii, October 17, 1989

/s/ Christopher J. Yuen
CHRISTOPHER J. YUEN
Attorney for Claimant

VERIFICATION

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

Christopher J. Yuen, being first duly sworn on oath, deposes and says:

1. I am an attorney in good standing licensed to practice before the United States District Court for the State of Hawaii.

2. I am duly authorized by James Daniel Good, claimant, to assert this Verified Claim on his behalf.

3. The Verified Claim attached hereto is true and correct to the best of my knowledge, information, and belief.

/s/ Christopher J. Yuen
CHRISTOPHER J. YUEN

Subscribed and sworn to before me this 17th day of October, 1989.

/s/ [Illegible] K. Thompson
Notary Public, State of Hawaii

My commisison expires: 8-29-93

DEMAND FOR JURY TRIAL

Comes now claimant James Daniel Good, by and through his undersigned counsel, pursuant to Rule 38 of the Federal Rules of Civil Procedure, and demands trial by jury of all issues so triable herein.

DATED: Hilo, Hawaii, October 17, 1989

/s/ Christopher J. Yuen
CHRISTOPHER J. YUEN
Attorney for Claimant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Civil No. 89-00612 HMF

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

FIRST AMENDED ANSWER TO COMPLAINT FOR FORFEITURE; CERTIFICATE OF SERVICE

[Filed Oct. 23, 1989]

FIRST AMENDED ANSWER TO COMPLAINT

Claimant James Daniel Good (hereinafter "Claimant"), by and through his undersigned counsel, hereby amends his Answer to the Complaint for Forfeiture filed herein as follows: in addition to the specific admissions and denials stated in paragraph 2 of his Answer to Complaint for Forfeiture, Claimant denies the allegations in paragraph 5 of the Complaint for Forfeiture.

DATED: Hilo, Hawaii, October 19, 1989

/s/ Christopher J. Yuen
CHRISTOPHER J. YUEN
Attorney for Claimant
James Daniel Good

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Mag. No. 89-0267 MT

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

SEIZURE WARRANT

[Filed Aug. 18, 1989]

TO: THE UNITED STATES MARSHAL FOR THE DISTRICT OF HAWAII, OR HER DESIGNEE AND TO THE UNITED STATES DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION, SPECIAL AGENT ROBERT AIU AND OTHER AUTHORIZED LAW ENFORCEMENT OFFICERS:

Affidavit having been made before me by Special Agent Robert Aiu of the Drug Enforcement Administration, that he has reason to believe that defendant, Property Titled in the Name of James Daniel Good, described in Transfer Certificate of Title No. 249,207, Tax Map Key No. 1-6-008-233(3), located at Keaau, District of Puna, Island and County of Hawaii, State of

Hawaii, together with appurtenances and improvements, is subject to seizure and forfeiture in the District of Hawaii under Title 21, United States Code, Section 881 (a)(7) and 841, and as I am satisfied that there is probable cause to believe that the property so described was used or was intended to be used, in any manner or part, to commit, or to facilitate a commission of a violation of Title 21, United States Code, the Controlled Substances Act, which is punishable by more than one year's imprisonment, in violation of Title 21, United States Code, Sections 881(a)(7) and 841 and is subject to forfeiture.

YOU ARE HEREBY COMMANDED to seize the property specified, servicing this warrant and make the seizure and leave a copy of this warrant. You are also commanded to enter into upon the defendant property located in Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, for the purpose of appraising the value of the property, photographing and inspecting the exterior and interior of any appurtenances and improvements, including any dwelling, and to ensure the condition of the premises and to ensure the absence of any safety hazards, and to prepare a written inventory of the property seized and promptly return this warrant and bring the inventory and return the property before me as required by law.

DATED this 18th day of Aug., 1989.

/s/ [Illegible]
United States Magistrate

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Mag. No. 89-0267 MT

UNITED STATES OF AMERICA, PLAINTIFF

vs.

PROPERTY TITLED IN THE NAME OF JAMES DANIEL GOOD, DESCRIBED IN TRANSFER CERTIFICATE OF TITLE NO. 249,207, TAX MAP KEY NO. 1-6-008-233 (3), LOCATED AT KEAAU, DISTRICT OF PUNA, ISLAND AND COUNTY OF HAWAII, STATE OF HAWAII, TOGETHER WITH APPURTENANCES AND IMPROVEMENTS, DEFENDANT

AFFIDAVIT IN SUPPORT OF SEIZURE WARRANT

[Filed Aug. 18, 1989]

BEFORE Bert S. Tokairin, United States Magistrate,

I, ROBERT AIU, being duly sworn, deposes and says that;

1. I am a Special Agent with the Department of Justice Drug Enforcement Administration currently stationed at the DEA Hilo, Hawaii office.

2. I have been involved in narcotics investigations and work closely with the Hawaii County Police Department. I am familiar with the investigation and subsequent arrest made by Detective Ronald Nakamichi of the Hawaii County Police on January 31, 1985, of one James Daniel Good at 37th and Ilima in the Orchid Land Estates in Puna, Island of Hawaii. I am also familiar with the police report prepared by Detective Nakamichi and

all the files and records kept by the Hawaii County Police Department on this particular matter.

3. Based on my familiarity with these records and the report prepared by Detective Nakamichi, I have reason to believe that defendant, Property Titled in the Name of James Daniel Good, described in Transfer Certificate of Title No. 249,207, Tax Map Key No. 1-6-008-233 (3), located at Keaau, District of Puna, Island and County of Hawaii, State of Hawaii, ("the property"), together with appurtenances and improvements, is subject to forfeiture under Title 21, United States Code, Section 881(a)(7) because it was used or intended to be used in any manner or part, to commit, or to facilitate the commission of, a violation of Subchapter I of Chapter 13 of Title 21, United States Code, punishable by more than one year's imprisonment.

The facts tending to establish the foregoing grounds for issuance of a Seizure Warrant are as follows:

1. Detective Nakamichi obtained information from a reliable informant ("C-1") that a hash oil machine and marijuana were located within the property; that C-1 had personally been inside a residence located on the property and viewed the machinery and marijuana, and that the owner of the property, James Daniel Good, informed him that he was manufacturing the hash oil for shipment to the mainland.

2. Detective Nakamichi also obtained information from another reliable informant ("C-2") who had previously given truthful and accurate information to him on at least four prior occasions. C-2 informed Nakamichi that he had been invited to the property and that he viewed an electric hash oil machine on the property. C-2 also informed Nakamichi that he had observed hash oil and marijuana within the property numerous times in the past.

3. Based upon this information, Detective Nakamichi obtained a search warrant which was subsequently served

on January 31, 1985. Upon a search of the property, the following items, among others, were recovered: 272.4 grams of marijuana seeds, 39,199.3 grams of processed marijuana, a heat seal and can seal machine, and large amounts of cash.

4. As a result of the search, James Daniel Good was arrested and a complaint issued on June 4, 1985, charging him with promoting a harmful drug in the second degree, in violation of Section 712-1245-(1)(b) of the Hawaii Revised Statutes. On August 7, 1985, James Daniel Good was found guilty of these charges.

FURTHER AFFIANT SAYETH NAUGHT.

/s/ Robert Aiu
ROBERT AIU
Special Agent
Drug Enforcement Administration

Subscribed and sworn to before me this 18th day of Aug. 1989.

/s/ Bert S. Tokairin
United States Magistrate
District of Hawaii

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

Case Number: Civil No. 89-00612 HMF

UNITED STATES OF AMERICA

v.

PROPERTY TITLED IN THE NAME OF
JAMES DANIEL GOOD, ET AL.

JUDGMENT IN A CIVIL CASE

☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ Decision by Court. This action came to hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

That Summary Judgment is entered in favor of Plaintiff and against Defendant. IT IS FURTHER ORDERED that Defendant property is hereby forfeited to Plaintiff United States of America.

cc: All parties of record

Date Oct. 3, 1990

/s/ Walter A.Y.H. Chinn
WALTER A.Y.H. CHINN
Clerk

SUPREME COURT OF THE UNITED STATES

No. 92-1180

UNITED STATES, PETITIONER

v.

JAMES DANIEL GOOD REAL PROPERTY, ET AL.

ORDER ALLOWING CERTIORARI

Filed March 22, 1993

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted.

March 22, 1993

☆ U. S. GOVERNMENT PRINTING OFFICE: 1993 342479 67010

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